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In the Supreme Court
OF THE
United States

OCTOBER TERM, 1979

No. 79-512

SCINDIA STEAM NAVIGATION CO., LTD.,
Petitioner,

vs.

LAURO DE LOS SANTOS and SEATTLE STEVEDORE CO.,
Respondents.

REPLY BRIEF OF PETITIONER IN SUPPORT OF PETITION

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The Response is a horse soon curried. (1) The Court of Appeals should have reviewed the grant of summary judgment under proper standards, and the significance of the conflict with other circuits cannot be hidden by labeling it an error in applying Rule 56, Fed.R.Civ.P. (2) The possible correctness of the judgment below is no reason to deny certiorari, given the conflict among circuits and the importance of the question presented. (3) The lines of decision in the Courts of Appeals are not converging, but are remaining separate. *See, e.g., Stockstill v. Gypsum Transportation,* 607 F.2d 1112 (5th Cir. 1979).

This case and its progeny in which petitions for certiorari are also pending, *Bachtel v. Mammoth Bulk Carriers, Ltd.*, 605 F.2d 438 (9th Cir. 1979), No. 79-538, and *Matthews v. Ernst Russ Steamship Co.*, 603 F.2d 676 (7th Cir. 1979), No. 79-624, present dramatic conflicts. *Santos* not only rejects prior authority; on similar facts it reaches a result contrary to *Harris v. H. Schuldt Reederei*, 596 F.2d 92 (4th Cir. 1979), No. 78-1851 in this Court. *Bachtel* not only rejects the prior authority regarding OSHA regulations; its result is irreconcilable with *Clemons v. Mitsui O.S.K. Lines, Ltd.*, 596 F.2d 746 (7th Cir. 1979), petition for certiorari filed *sub nom. McCulley v. Mitsui O.S.K. Lines, Ltd.*, No. 79-706. And *Matthews, Santos'* other offspring, turns upon an unwarranted application of *Edmonds v. Compagnie Generale Transatlantique*, ... U.S. ..... (June 27, 1979), to the standard of care issues and the rejection of *Edmonds'* requirement of substantiality of causation.

Santos is not merely a departure from precedent; it is the authority on which others have first relied before making other departures, and it is respectfully submitted that the petition for certiorari herein should, therefore, be granted.

Respectfully submitted,

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